

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ST. LOUIS HEART CENTER, INC.,)	
individually and on behalf of all others)	
similarly situated,)	
)	
Plaintiffs,)	Cause No.
)	
v.)	JURY TRIAL DEMANDED
)	
NOMAX, INC. and JOHN DOES 1-10,)	Removal of Cause No. 15SL-CC00433,
)	St. Louis County Circuit Court
Defendants.)	

NOTICE OF REMOVAL

Defendant Nomax, Inc. (“Nomax”), pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, hereby removes this action which has been pending as Cause No. 15SL-CC00433 in the Circuit Court of St. Louis County, Missouri, to the United States District Court for the Eastern District of Missouri, Eastern Division. In support of this Notice of Removal, Nomax states as follows:

I. Procedural Removal Requirements Are Satisfied

1. Plaintiff St. Louis Heart Center, Inc. (“Plaintiff”) commenced this action by filing a Class Action Petition (“Petition”) on February 6, 2015 in the Circuit Court of St. Louis County, Missouri, Cause No. 15SL-CC00433 (the “State Court Action”).

2. Defendant’s registered agent was served with a copy of the Petition and summons on February 24, 2015. Thirty days have not yet expired since this action became removable to this Court. Thus, this matter is timely removed. 28 U.S.C. § 1446(b).

3. Pursuant to Rule 81-2.03 of the Local Rules of the United States District Court for the Eastern District of Missouri, the complete file of the Circuit Court of St. Louis County, Missouri, in this matter is attached to this Notice as **Exhibit A**.

4. A true and correct copy of the Petition is attached hereto in Exhibit A.

5. No other pleadings or papers have been filed in this litigation.

6. Pursuant to Local Rule 3-2.02, Defendant is contemporaneously filing a completed Civil Cover Sheet, an Original Filing Form, and a Disclosure of Organizational Interests Certificate.

7. Concurrent with the filing of this Notice, Defendant is serving this Notice on Plaintiff's counsel and filing a copy of the Notice with the Clerk of the Circuit Court of St. Louis County, Missouri. In accordance with Local Rule 81-2.03, Nomax will file proof of filing the notice with the Clerk of the State Court and proof of service on all adverse parties.

8. The United States District Court for the Eastern District of Missouri, Eastern Division, embraces the county in which the State Court Action is now pending. Therefore, venue is proper for this action pursuant to 28 U.S.C. §§ 105(a)(1) and 1446(a).

9. By filing a Notice of Removal, Defendant does not waive any of its rights or defenses.

II. This Court Has Federal Question Jurisdiction

10. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiff's claims arise under federal law. Plaintiff alleges a cause of action that Nomax violated the federal Telephone Consumer Protection Act, 47 U.S.C. § 227 ("TCPA"). *Petition*, at ¶¶31-50.

11. The United States Supreme Court, in *Mims v. Arrow Financial Services, LLC*, stated that "because federal law creates the right of action and provides the rules of decision, . . . a TCPA claim, in 28 U.S.C. § 1331's words, plainly 'aris[es] under' the 'laws . . . of the United States.'" 132 S.Ct. 740, 748 (2012). The Supreme Court held that "Congress did not deprive federal court of federal-question jurisdiction over private TCPA suits." *Id.* at 747.

12. Because Plaintiff's claims include a federal question, this case is removable by Nomax. 28 U.S.C. §§ 1441(a) and 1441(c).

WHEREFORE, all of the requirements of 28 U.S.C. §§ 1331, 1441(a), and 1446 have been satisfied, and Notice is hereby given that this action is removed from the Circuit Court of St. Louis County, Missouri to the United States District Court for the Eastern District of Missouri, Eastern Division.

DATED: March 24, 2015

Respectfully submitted,

CARMODY MacDONALD P.C.

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Attorneys for Defendant Nomax, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 24th day of March, 2015, a true and correct copy of this document was filed with the Court's CM-ECF system and was sent by electronic mail and U.S. Mail to:

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/s/ Tina N. Babel